THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte FUJIKAWA HISASHI, YOUKI YONEDA,
SIGEHARU KAWAZU and MINORU SAKAMOTO

_____

Appeal No. 97-4049
Application 08/456,802[1]

_____

ON BRIEF

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Before PATE, STAAB and McQUADE, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Fujikawa Hisashi et al. appeal from the final rejection of claims 1, 6, 10 through 16 and 20.[2] Claims 17 through 19, the only other claims pending in the application, stand withdrawn from consideration pursuant to 37 CFR § 1.142(b).

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[1] Application for patent filed June 1, 1995.

[2] claims 1, 6, 10, 12 and 20 have been amended subsequent to final rejection.

The subject matter on appeal relates to "a packing container for protecting parts of electronic equipments, etc. against static electricity when they are transported" (specification, page 1). Claim 1 is illustrative and reads as follows:

1. A packing container, comprising:

a packaging member which is formed to provide a bounded shape to the packing container, the packaging member when in the bounded shape having an inner surface which faces the interior of the packing container;

an antistatic member for forming a closed electrically conductive path along the inner surface of said packing container, said antistatic member being formed of an electrostatically conductive metal foil; and

an electrically conductive tape for connecting two adjoining ends of the inner surface of the packaging member including said metal foil.

The references relied upon by the examiner as evidence of obviousness are:

Ohlbach	4,293,070	Oct. 06, 1981
Bradford	5,205,406	Apr. 27, 1993
Holley	5,491,013	Feb. 13, 1996 (filed Aug. 31, 1994)

"Shielding Method and Its Characteristic," Electronic Circuit Part Application Manual, Volume 1, page 478 (November 1988)[3]

Claims 1, 6, 11 through 16 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ohlbach in view of Holley and the Electronic Circuit Part

[3] The Electronic Circuit Part Application Manual reference is a foreign language document submitted by the appellants with a brief English language summary on March 8, 1996 (Paper No. 7).

Application Manual, and claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ohlbach in view of Holley, the Electronic Circuit Part Application Manual and Bradford.

Reference is made to the appellants' main and reply briefs (Paper Nos. 15 and 17) and to the examiner's answer (Paper No. 16) for the respective positions of the appellants and the examiner with regard to the merits of these rejections.

Ohlbach, the examiner's primary reference, discloses a shipping/storage carton which is designed to protect electronic devices such as printed circuit boards from the deleterious effects of static electricity. To this end, the carton consists of paper board coated on its inside surfaces with conductive carbon black particles which prevent outside static electricity charges from passing through the carton. As described by Ohlbach,

> [t]he carton blank shown in FIG. 4 is for illustrative purposes but also shows that the carton blank, from which the carton is to be erected, may have a pair of side panels 44, a pair of end panels 46 joined by score lines to the side panels, a pair of end flaps 48 joined by score lines to each of the end panels, and a pair of side flaps 50 joined by score lines to each of the side panels. . . . A joint tab 52 for a glued joint may be attached by a score line to an end panel.
>
> The blank shown in FIG. 4 enables a six-sided carton to be erected and closed with all inside surfaces opposite outside surfaces presenting the desired carbon black circumvallate such that a printed circuit board inserted into the carton cavity before closure is within the carbon black circumvallate and any discharge of static electricity outside the container, even if it penetrates the thickness of the paper board, will be trapped by an inside carbon black circumvallate coating on one of the panels or flaps and will circulate endlessly thereabout, until finally bled off or dissipated.

> A joint tab as 52 need not always be used and indeed the end closure flaps may be secured by a tape or they may be secured by a tuck-in flap [column 4, line 53 through column 5, line 10].

As conceded by the examiner (see page 4 in the answer), the Ohlbach carton does not meet the limitations in independent claims 1 and 20 pertaining to the electrically conductive tape on the inner surface of the packaging member or packing container. Although the Ohlbach reference teaches that the end closure flaps of the carton may be secured by a tape, it does not indicate that this tape is or should be electrically conductive.

Holley discloses an electrostatic-dissipating packaging tape composed of a transparent polymeric substrate, a transparent adhesive layer on one surface of the substrate and a transparent clay coating having a surface resistivity of 10^{14} ohms per square or less on the opposite surface of the substrate. Figure 2 shows a typical use of the tape wherein it serves as a cover or closure member for a packaging structure containing electronic components which are sensitive to static electricity.

The Electronic Circuit Part Application Manual discloses the use of metallic foil as an external shield to reflect electromagnetic energy.

According to the examiner,

> [i]t would have been obvious to one of ordinary skill in the art in view of Holley and The Electronic Circuit Part Application Manual to apply electrostatic dissipating packaging tape to any and all suitable surfaces and edges of the container of Ohlbach to connect two adjoining ends with the antistatic members to prevent static electricity damage" [answer, page 4].

As pointed out by the appellants, however, these references provide no indication that the carton disclosed by Ohlbach is in any way deficient in performing its intended function of protecting electronic devices housed therein from static electricity damage. Thus, it is not apparent how or why one of ordinary skill in the art would have found it obvious to supply the Ohlbach carton with an electrically conductive tape of the sort required by independent claims 1 and 20. The examiner's sweeping conclusion to the contrary, i.e., that it would have been obvious to apply electrostatic dissipating packaging tape to any and all suitable surfaces and edges of the Ohlbach container, betrays the impermissible hindsight impetus of the proposed Ohlbach-Holley-Manual combination. Bradford, also lacking in any relevant teaching involving electrically conductive tapes, fails to cure this flaw in the basic prior art combination. This being the case, we shall not sustain the examiner's 35 U.S.C. § 103 rejections of independent claims 1 and 20, or of claims 6 and 10 through 16 which depend from claim 1.

In summary, the decision of the examiner to reject claims 1, 6, 10 through 16 and 20 is reversed.

REVERSED

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WILLIAM F. PATE, III	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JOHN P. McQUADE	)	
Administrative Patent Judge	)	

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